

Exhibit 72:

Timothy Fitzgerald Deposition Transcript



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Transcript of the Testimony of
Fitzgerald, Timothy

Date: June 28, 2023

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Case: JOHN DOES A, et al. v. GRETCHEN WHITMER, et al.

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Fitzgerald, Timothy
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FIRM #8093

<p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <p>JOHN DOES A, B, C, D, E, F, G, H, MARY DOE and MARY ROE, on behalf of themselves and all others similarly situated, Plaintiffs,</p> <p>vs. Case No. 2:22-cv-10209 Hon. Mark A. Goldsmith Mag. Curtis Ivy, Jr.</p> <p>GRETCHEN WHITMER, Governor of the State of Michigan, and COL. JOSEPH GASPER, Director of the Michigan State Police, in their official capacities, Defendants.</p> <hr/> <p>The Deposition of TIMOTHY FITZGERALD, Taken via videoconference, Marshall, Michigan, Commencing at 9:58 a.m.,</p> <p>Page 1</p>	<p>1 The Deposition of TIMOTHY FITZGERALD, 2 Taken via videoconference, 3 Marshall, Michigan, 4 Commencing at 9:58 a.m., 5 Wednesday, June 28, 2023, 6 Before Heather DeMar, RPR, CSR-8951, 7 Tri-County Court Reporters - 8093. 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Page 2</p>
<p>1 APPEARANCES 2 3 PAUL REINGOLD - P27594 4 University of Michigan Law School 5 801 Monroe Street 6 Ann Arbor, Michigan 48109 7 734.355.0319 8 Appearing on behalf of the Plaintiffs. 9 10 11 ERIC JAMISON - P75721 12 Michigan Department of Attorney General 13 525 West Ottawa Street 14 Lansing, Michigan 48933 15 517.335.7573 16 Appearing on behalf of the Defendants. 17 18 19 20 21 22 23 24 25</p> <p>Page 3</p>	<p>1 TABLE OF CONTENTS 2 3 Witness Page 4 TIMOTHY FITZGERALD 5 6 EXAMINATION 7 BY MR. REINGOLD: 7 8 EXAMINATION 9 BY MR. JAMISON: 64 10 RE-EXAMINATION 11 BY MR. REINGOLD: 71 12 13 INDEX TO EXHIBITS 14 15 Exhibit Page 16 (Exhibits attached to transcript.) 17 18 DEPOSITION EXHIBIT 8 19 19 DEPOSITION EXHIBIT 5 24 20 DEPOSITION EXHIBIT 3 40 21 DEPOSITION EXHIBIT 1 48 22 DEPOSITION EXHIBIT 2 54 23 24 25</p> <p>Page 4</p>

Fitzgerald, Timothy

6/28/2023

FIRM #8093

<p>1 Marshall, Michigan</p> <p>2 Wednesday, June 28, 2023</p> <p>3 9:58 a.m.</p> <p>4</p> <p>5 TIMOTHY FITZGERALD,</p> <p>6 was thereupon called as a witness herein via</p> <p>7 videoconference, where all parties stipulate to the</p> <p>8 witness having first been duly sworn in remotely to</p> <p>9 testify to the truth, the whole truth and nothing but</p> <p>10 the truth, was examined and testified as follows:</p> <p>11 MR. REINGOLD: I think we're ready to</p> <p>12 proceed. My name is Paul Reingold. I'm a cooperating</p> <p>13 attorney for the ACLU representing the plaintiffs in</p> <p>14 Does III, also known as Does v. Whitmer. This is a</p> <p>15 Zoom deposition, on June 28th, 2023, pursuant to the</p> <p>16 Federal Rules of Civil Procedure, for all purposes</p> <p>17 permitted by those rules.</p> <p>18 Let me start by just going through a few</p> <p>19 rules of the road that will make things easier for us</p> <p>20 and for the court reporter. First, let me ask, have</p> <p>21 you ever been deposed before.</p> <p>22 THE WITNESS: One time.</p> <p>23 MR. REINGOLD: How long ago was that?</p> <p>24 THE WITNESS: More than ten years.</p> <p>25 MR. REINGOLD: All right. Well, this will</p> <p style="text-align: center;">Page 5</p>	<p>1 probably sound familiar then if you have -- if it</p> <p>2 wasn't such a bad experience that you blocked it out</p> <p>3 of your mind. At the bottom, depositions help the</p> <p>4 parties to resolve factual disputes. Basically they</p> <p>5 facilitate the transfer of knowledge that one side</p> <p>6 knows and the other side doesn't.</p> <p>7 The way it works, I'll simply be asking</p> <p>8 questions and you provide answers. If you don't</p> <p>9 understand a question, you should tell me and I'll be</p> <p>10 happy to rephrase it. If you answer a question, we'll</p> <p>11 assume that you understood it. And I need to make</p> <p>12 sure that you understand that. Is that okay with you?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. REINGOLD: You need to say yes. Great.</p> <p>15 Okay. The -- my next line is you must answer in</p> <p>16 words. The court reporter can't take down head shakes</p> <p>17 and uh-huhs. And so, make sure that we do that.</p> <p>18 In addition, the court reporter can't get a</p> <p>19 clean transcript if two people are talking at once.</p> <p>20 And so, we want to try to avoid talking over each</p> <p>21 other.</p> <p>22 I'd also ask that you try to answer the</p> <p>23 question that I ask. If there's more that you want to</p> <p>24 say, at the end of the deposition there's a</p> <p>25 possibility that the state's lawyer will want to ask</p> <p style="text-align: center;">Page 6</p>
<p>1 you some questions as well.</p> <p>2 If you need to take a break at any time,</p> <p>3 feel free just to ask. The only thing I ask is that</p> <p>4 you answer any pending questions before we take a</p> <p>5 break.</p> <p>6 And then the last thing is I also need to</p> <p>7 ask if you're on any medications or using any alcohol</p> <p>8 or drugs that would impair your ability to tell us</p> <p>9 what you know today?</p> <p>10 THE WITNESS: No, I'm not.</p> <p>11 MR. REINGOLD: Okay. Thank you. I'm not</p> <p>12 sure how long this will take us. The last dep was</p> <p>13 about two hours. I'm guessing this will be roughly</p> <p>14 the same. Might be a little longer, but it might be a</p> <p>15 little shorter, too.</p> <p>16 EXAMINATION</p> <p>17 BY MR. REINGOLD:</p> <p>18 Q. Let me start by asking what you did to prepare? What</p> <p>19 you did, if anything, to prepare for the deposition</p> <p>20 today?</p> <p>21 A. I -- well, I -- I had a phone conversation with you,</p> <p>22 Paul.</p> <p>23 Q. Yeah.</p> <p>24 A. That was the impetus for the whole thing. And then I</p> <p>25 contacted Steve Beatty, who was the counsel for the</p> <p style="text-align: center;">Page 7</p>	<p>1 state police at the time.</p> <p>2 Q. And you --</p> <p>3 A. Just to kind of test my memory from, you know, many</p> <p>4 years ago.</p> <p>5 Q. Was that to get information as opposed to getting</p> <p>6 legal advice?</p> <p>7 A. Honestly, it was a little bit of both. Because</p> <p>8 it's -- it'd been so long since I'd been deposed. But</p> <p>9 the -- the primary reason was to try to get a little</p> <p>10 bit of background to jar my memory. Because I don't</p> <p>11 -- I didn't save any of my, you know, any of the notes</p> <p>12 I had or any of my old stuff.</p> <p>13 When I retired, I -- I kind of didn't -- I</p> <p>14 was hoping I would never hear about the Sex Offender</p> <p>15 Registry again, honestly.</p> <p>16 Q. Your plan was not to look back, I take it?</p> <p>17 A. Right.</p> <p>18 Q. Okay. That's a good plan when one moves into</p> <p>19 retirement.</p> <p>20 Any conversation with anyone else to</p> <p>21 discuss or prepare?</p> <p>22 A. No.</p> <p>23 Q. And Mr. Beatty is not representing you at this time,</p> <p>24 is that right?</p> <p>25 A. No.</p> <p style="text-align: center;">Page 8</p>

2 (Pages 5 to 8)

Fitzgerald, Timothy

6/28/2023

FIRM #8093

<p>1 Q. Okay. So your conversation with him was mostly to</p> <p>2 sort of jog your memory and try to make sure that what</p> <p>3 you remembered was accurate?</p> <p>4 A. Right.</p> <p>5 Q. Okay. I want to start by asking you just a little bit</p> <p>6 about your background. Usually when we do a</p> <p>7 deposition with more notice, we'll have a copy of the</p> <p>8 person's CV or we'll, you know, we'll have checked</p> <p>9 them out on LinkedIn or something like that. And I've</p> <p>10 not done that.</p> <p>11 Can you just give us a quick overview of</p> <p>12 your educational background, just hit the highlights;</p> <p>13 high school, college, any postcollege work, and police</p> <p>14 training.</p> <p>15 A. So I went to De La Salle Collegiate High School in</p> <p>16 Detroit, graduated in '87. Then went to University of</p> <p>17 Detroit, which became the University of Detroit Mercy.</p> <p>18 But I'm kind of proud to say my diploma has U of D,</p> <p>19 old school. I majored in accounting.</p> <p>20 I worked briefly for Arthur Andersen</p> <p>21 downtown in an internship and I realized quickly that</p> <p>22 wasn't for me. So I wanted to pursue my initial</p> <p>23 passion of being a police officer. So I applied to</p> <p>24 the Michigan State Police, completed recruit training</p> <p>25 in the 111th recruit school in 1995, January of '95.</p> <p style="text-align: center;">Page 9</p>	<p>1 And so, I was on road patrol for roughly</p> <p>2 sixteen and a half years. Then I took a spot in</p> <p>3 special operations with the governor's security</p> <p>4 section. I was with Governor Snyder for four years as</p> <p>5 part of his detail.</p> <p>6 Then I promoted to government affairs from</p> <p>7 that spot, so I became a policy liaison, one of the</p> <p>8 sergeants in that small unit and --</p> <p>9 Q. What year was that?</p> <p>10 A. That would have been '15, 2015. So then I became this</p> <p>11 -- I was the, you know, the -- in that unit there's a</p> <p>12 commander and then there's a couple of sergeants that</p> <p>13 are basically attending legislative committees and</p> <p>14 legislative work groups and this sort of thing.</p> <p>15 That's when I first became familiar with</p> <p>16 this issue on this level as opposed to the field</p> <p>17 enforcement level. And then in 2018, I was promoted</p> <p>18 to commander of that unit as a first lieutenant. And</p> <p>19 that's where I retired in July of 2020.</p> <p>20 Q. All right. The -- thank you. That's exactly what I</p> <p>21 wanted.</p> <p>22 In the -- the one question I had on your</p> <p>23 background was you said when you went to the</p> <p>24 governor's office it was doing special ops. And can</p> <p>25 you just briefly describe the kinds of work you were</p> <p style="text-align: center;">Page 10</p>
<p>1 doing in the governor's office. And I take it that</p> <p>2 would have been roughly 2011 to 2015?</p> <p>3 A. Correct. That was in -- I was on his protective</p> <p>4 detail for the first term. So we did executive</p> <p>5 protection. The types of things that go along with</p> <p>6 that, basically twenty-four-hour security coverage of</p> <p>7 the governor and his family. Site advances, you know,</p> <p>8 in advance of wherever he attended or wherever he</p> <p>9 went, travelling with them, that sort of thing.</p> <p>10 Q. All right. And then what led you to government</p> <p>11 relations? You said it was a promotion, but was it</p> <p>12 because you got to know the governor? Or was there</p> <p>13 something else going on?</p> <p>14 A. No. No. It was a promotional opportunity. And</p> <p>15 frankly, I'm not going to lie, it kind of sparked --</p> <p>16 being around Lansing and the process all the time kind</p> <p>17 of sparked an interest in what was going on in the</p> <p>18 government affairs office.</p> <p>19 It was a promotional opportunity to</p> <p>20 sergeant. And after travelling for four years on</p> <p>21 executive protection, you are -- you're constantly</p> <p>22 basically away. And I have four kids, four sons. And</p> <p>23 after the first term, when Snyder got reelected, my</p> <p>24 wife was basically like we should do something</p> <p>25 different. So that's why I pursued it.</p> <p style="text-align: center;">Page 11</p>	<p>1 Q. That's the we meaning you?</p> <p>2 A. Right.</p> <p>3 Q. Okay. And so, when you arrived in 2015 as one of, I</p> <p>4 take it, two sergeants, I -- I assume early on you're</p> <p>5 kind of learning the ropes in the new position, is</p> <p>6 that right?</p> <p>7 A. Yes, exactly. Yeah, you're learning how to --</p> <p>8 learning, you know, basically the committee schedule,</p> <p>9 how the legislature works. And you quickly get put</p> <p>10 into, you know, issue groups.</p> <p>11 And so, usually you start with the, you</p> <p>12 know, more traffic offenses, you know, some of the,</p> <p>13 you know, some of the more minor legislative issues.</p> <p>14 And then as you get more time, you get different</p> <p>15 assignments.</p> <p>16 Q. And do you remember when you first got involved with</p> <p>17 anything having to do with SORA?</p> <p>18 A. Yes. Well, I mean, generally in, I would say, 2017.</p> <p>19 And, Paul, I would have -- either you or Miriam would</p> <p>20 really know the date better than I would. It was</p> <p>21 really Shelli Weisberg that reached out with the idea</p> <p>22 that, you know, we needed to modify SORA.</p> <p>23 I know that there was -- I don't exactly</p> <p>24 know the timing of that other -- the other lawsuit,</p> <p>25 you know, that one that found some of the items to be</p> <p style="text-align: center;">Page 12</p>

3 (Pages 9 to 12)

Fitzgerald, Timothy

6/28/2023

FIRM #8093

<p>1 unconstitutional. I think we were waiting for that</p> <p>2 decision, I think, when that work group kind of</p> <p>3 evolved to kind of begin talking about revisions to</p> <p>4 the registry.</p> <p>5 Q. Okay. Yeah. I think that's -- that's right or close</p> <p>6 to right. I believe the -- the Sixth Circuit decision</p> <p>7 was 2016. And then the state appealed that to the</p> <p>8 U.S. Supreme Court and that took another, I don't</p> <p>9 remember, but it was probably six months or seven</p> <p>10 months, something like that.</p> <p>11 Then it got remanded to the district court.</p> <p>12 And I believe a final judgment wasn't entered until</p> <p>13 mid-to-late 2017 in Does I. And it probably would</p> <p>14 have been late 2017 when we knew that the judgment was</p> <p>15 going to be entered.</p> <p>16 And at that point Shelli was trying to get</p> <p>17 folks in Lansing interested in talking about what a</p> <p>18 new statute might look like.</p> <p>19 A. Okay. Paul --</p> <p>20 Q. Go ahead.</p> <p>21 A. Real quick on my background piece. I'm not an</p> <p>22 attorney. I was a policy, you know, liaison. You</p> <p>23 know, I was more involved in the politics of the thing</p> <p>24 than the nuts and bolts of the cases and the legalese</p> <p>25 that, you know, you guys are --</p> <p style="text-align: center;">Page 13</p>	<p>1 Q. Yeah. Yeah.</p> <p>2 A. -- entrenched in.</p> <p>3 Q. All right. So when that work group started, that was</p> <p>4 kind of informal, I think, right? It was -- I was not</p> <p>5 part of that initially. I know that Shelli was</p> <p>6 meeting and other people from PAAM who were meeting on</p> <p>7 that.</p> <p>8 And do you have recollections about what</p> <p>9 was being talked about in that early stage of the work</p> <p>10 group?</p> <p>11 A. In the early stages of the work group, it was very</p> <p>12 small. It was Shelli, myself, KC Steckelberg from</p> <p>13 PAAM, and representatives of the -- of the</p> <p>14 legislature, like the Senate majority policy office.</p> <p>15 And I can't remember who the House was sending to</p> <p>16 those meetings.</p> <p>17 It was a little small group and we</p> <p>18 initially started with Shelli bringing in some people</p> <p>19 to basically lay a background for the impact that SORA</p> <p>20 was -- or being on SORA was having on people's lives.</p> <p>21 That's -- that's my recollection of the beginning of</p> <p>22 it.</p> <p>23 Q. Based on your experience in governmental affairs for</p> <p>24 the MSP, was it typical that you would be contacted in</p> <p>25 the early stages of legislation? Let's take an</p> <p style="text-align: center;">Page 14</p>
<p>1 example and say outside of SORA, you know, if -- if a</p> <p>2 legislator is thinking about legislation or -- or</p> <p>3 they've got some proposals in mind, before the bill</p> <p>4 actually gets drafted and introduced, are they</p> <p>5 reaching out to agencies that are going to be affected</p> <p>6 by it or trying to either collect information or get</p> <p>7 more -- in the early stage, is that typical?</p> <p>8 A. Yes. That's -- that's exactly what would happen. Not</p> <p>9 always with legislators, but the ones, I think, who</p> <p>10 are trying to have the most meaningful impact would</p> <p>11 contact the agency that they thought would be the lead</p> <p>12 on the bill if they were going to change something.</p> <p>13 So, for example, speed limits almost always</p> <p>14 would come to the state police and MDOT, things like</p> <p>15 that. And then they would reach out and talking about</p> <p>16 whatever the change, the policy change would be.</p> <p>17 Q. So one of the things that I was having trouble with --</p> <p>18 with Lieutenant McGhee understanding when I was asking</p> <p>19 her questions in her dep, was sort of how that process</p> <p>20 works.</p> <p>21 So the speed limits is a good example and</p> <p>22 let's just stick with that for a minute. If there's a</p> <p>23 proposal to increase or reduce speed limits, you know,</p> <p>24 whatever it's going to be and they're coming to you,</p> <p>25 the question that I had is how does MSP as an agency</p> <p style="text-align: center;">Page 15</p>	<p>1 decide what it's going to -- first, what information</p> <p>2 it's going to provide to legislators in that situation</p> <p>3 and, second, what its own position is actually going</p> <p>4 to be?</p> <p>5 A. Okay. So first involved within the department, you</p> <p>6 know, we are -- we're sort of chuck -- well, they were</p> <p>7 sort of chuck full of subject matter experts in</p> <p>8 things. So first, speed limits, we had the traffic</p> <p>9 engineering section, accident reconstruction section.</p> <p>10 So we would have people that their whole</p> <p>11 careers were, you know, on speed limits, were in those</p> <p>12 two units, you know, would have guys that were filled</p> <p>13 with training and experience and they would know if it</p> <p>14 was plausible, whatever the idea was.</p> <p>15 So like the speed limit, you know,</p> <p>16 theoretically, say they were coming and saying the</p> <p>17 speed limit should be eighty because I was out in</p> <p>18 South Dakota and that worked out great and everything.</p> <p>19 We would -- I would go to the experts and go what do</p> <p>20 you think about eighty. And they would say well, you</p> <p>21 know, the road design comes into play. And they would</p> <p>22 come up with all these other things.</p> <p>23 But even then -- to go to the second part</p> <p>24 of your question to who makes the decision on what our</p> <p>25 position is going to be -- that's the executive</p> <p style="text-align: center;">Page 16</p>

4 (Pages 13 to 16)

Fitzgerald, Timothy

6/28/2023

FIRM #8093

<p>1 office. Because we're a state agency and we are sort</p> <p>2 of -- we run -- we have to run everything through EOG</p> <p>3 to get a direction of what they, you know, what</p> <p>4 they're going to let us say. Because it could be our</p> <p>5 position, yeah, you could -- we could do eighty. But</p> <p>6 for whatever reason the EOG might say no, we're not</p> <p>7 going to do that.</p> <p>8 Q. When you're dealing with the EOG, is that also a</p> <p>9 different people for different areas of expertise? Or</p> <p>10 is it sort of the same group of people for almost any</p> <p>11 legislation?</p> <p>12 A. Well, in my time it was always somebody assigned.</p> <p>13 Like during the Snyder administration, there was a</p> <p>14 person assigned always to the -- the Senate and to the</p> <p>15 House. So depending on where the bill originated,</p> <p>16 you'd get that person and then the director of</p> <p>17 legislative affairs.</p> <p>18 And then, you know, that's -- when Whitmer</p> <p>19 came in, I think they siloed it into one person. I</p> <p>20 can't remember -- Greg Bird, I think, was the one when</p> <p>21 I started. And honestly, I can't recall who the</p> <p>22 Senate and the House people were.</p> <p>23 Q. Yeah. And is the EOJ -- is it EOG or EOJ?</p> <p>24 A. G, Executive Office of the Governor.</p> <p>25 Q. Yeah. Okay. And then that's fully within the</p> <p style="text-align: center;">Page 17</p>	<p>1 governor's office and it's basically the governor</p> <p>2 saying to executive branch agencies, you know, yes,</p> <p>3 you can have your opinions, but in the end here's what</p> <p>4 we are going to do?</p> <p>5 A. Exactly.</p> <p>6 Q. All right. All right. So when we get to the issue of</p> <p>7 SORA, we've got SORA 2011 being struck down by the</p> <p>8 Sixth Circuit and part of it being struck down by the</p> <p>9 district court.</p> <p>10 So towards the end of 2017, the work group</p> <p>11 begins. And then at that point what was the</p> <p>12 expectation within the MSP about what was going to</p> <p>13 happen with SORA?</p> <p>14 A. From my recollection, it was that -- well, some of</p> <p>15 those pieces of the registry were now unconstitutional</p> <p>16 and we needed to make changes to accommodate that or</p> <p>17 changes were needed to accommodate the court ruling.</p> <p>18 Q. In your time at -- at governmental affairs before this</p> <p>19 started had you ever encountered the situation where</p> <p>20 the courts held a law to be unconstitutional and then</p> <p>21 the legislature doesn't do anything, just nothing</p> <p>22 happened?</p> <p>23 A. I -- no. This was the only issue where I ever had a</p> <p>24 court -- that there was a court case as the impetus</p> <p>25 for making a policy change.</p> <p style="text-align: center;">Page 18</p>
<p>1 Q. Okay. Let me pull up an exhibit that I'll share with</p> <p>2 you, just a minute. I'm sharing a document from Does</p> <p>3 II. Actually, because that's the only -- that's the</p> <p>4 one I could find it, but it actually goes back to Does</p> <p>5 I.</p> <p>6 And I want to know if this was something</p> <p>7 you knew about or had seen at any time. This was</p> <p>8 after -- after the Sixth Circuit had ruled that the</p> <p>9 Michigan SORA was unconstitutional. And this was a</p> <p>10 memo that went out from the state police Sex Offender</p> <p>11 Registry unit. And it's titled -- first, can you see?</p> <p>12 A. I can, yeah.</p> <p>13 Q. Okay. It's titled important information regarding</p> <p>14 enforcement of specific provision of the Sex Offender</p> <p>15 Registration Act, SORA, and the citation. Is this a</p> <p>16 document that you've seen before?</p> <p>17 A. I do recall seeing this before.</p> <p>18 MARKED BY THE REPORTER:</p> <p>19 DEPOSITION EXHIBIT 8</p> <p>20 10:19 a.m.</p> <p>21 BY MR. REINGOLD:</p> <p>22 Q. All right. And this is something, I believe, that</p> <p>23 went out from the state police, not just to the -- to</p> <p>24 other state police units, but I believe to -- to --</p> <p>25 broadly to law enforcement statewide.</p> <p style="text-align: center;">Page 19</p>	<p>1 And it's basically -- I mean, correct me if</p> <p>2 I'm wrong -- but I believe it's basically advising all</p> <p>3 law enforcement that -- again, the bold letters are</p> <p>4 what I'm looking at in the middle of the page -- that</p> <p>5 enforcement of any of the 2006 or 2011 requirements</p> <p>6 retroactively against any offender could subject</p> <p>7 individual officers and law enforcement agencies to</p> <p>8 possible civil liability.</p> <p>9 Is it fair to say this was a document</p> <p>10 alerting all law enforcement in the state that this</p> <p>11 case has come down; that if people keep on doing what</p> <p>12 they've been doing in the past, they could face civil</p> <p>13 liability? Is that what this was intended to do?</p> <p>14 A. You mean by people keep on --</p> <p>15 Q. I mean law enforcement.</p> <p>16 A. Yes. Yeah. This was an instructional document,</p> <p>17 basically --</p> <p>18 Q. Okay.</p> <p>19 A. -- legal update.</p> <p>20 Q. And is this the kind of thing the -- the state police</p> <p>21 do on a -- not necessarily a regular basis -- but do</p> <p>22 when there's a change in law and they want to make</p> <p>23 sure that not just their own officers, but the law</p> <p>24 enforcement statewide are keyed into and know about?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

Fitzgerald, Timothy

6/28/2023

FIRM #8093

<p>1 MR. JAMISON: Objection for lack of 2 foundation and vague. 3 BY MR. REINGOLD: 4 Q. That's if you know. You can answer. 5 A. Am I good to answer there? 6 Q. Yeah, you can answer. Whenever there's an objection, 7 you can -- 8 MR. JAMISON: Yeah. So I may make some 9 objections and then sometimes Paul will just reframe 10 the question for you. You'll still need to answer. 11 THE WITNESS: Got it. Okay. So yes, this 12 is what -- this is what -- this was typical of what 13 would happen. The same thing with our legal updates, 14 when there's law changes that are significant to 15 enforcement operations and we send out a legal update 16 that is a subscription services for locals. 17 BY MR. REINGOLD: 18 Q. All right. And that's because -- or is that because 19 the state police are viewed as, you know, sort of -- 20 I'm not sure the polite way to say it -- but the -- 21 the -- the highest level of law enforcement in the 22 state and the people who have their ears closest to 23 the ground? 24 MR. JAMISON: Objection, lack of 25 foundation.</p> <p style="text-align: center;">Page 21</p>	<p>1 BY MR. REINGOLD: 2 Q. You can answer. 3 A. So I would -- I mean, I think that's a -- that's a -- 4 that way I would love to think about it. But I think 5 that we're just closest to the changes and I think a 6 lot of local agencies don't have the resources to keep 7 up. So they -- that's why we put the legal bulletins 8 out. 9 Q. Yeah. All right. 10 A. The thought that we're the best. 11 Q. All right. Let me see if there's anything else in 12 this exhibit. No, all right. I'm going to stop 13 sharing that. I'm going to pick up -- all right. All 14 right. And can you no longer see that document? 15 A. Yeah, it's gone. 16 Q. Okay. All right. 17 MR. REINGOLD: And that was -- just for the 18 record, that was listed as Exhibit 8 because I found 19 it late and I had already renumbered the other ones. 20 So we're going a little bit out of order. 21 BY MR. REINGOLD: 22 Q. You might recall that after the Does I judgment was 23 entered and the case became final, basically nothing 24 happened, right? I mean, your work group got started, 25 but there was no progress from the legislature, right?</p> <p style="text-align: center;">Page 22</p>
<p>1 A. Right. 2 Q. All right. And I -- I remember and you may recall, 3 too, that the state's lawyers and the ACLU also 4 assumed that the legislature would act to amend SORA 5 and were surprised when it did not. You may have 6 heard that from Shelli, I don't know, but there was a 7 sense that once a court has ruled, you would expect 8 the legislature to rule and it didn't. 9 And so, was it your sense that there was 10 surprise all the way around at the passivity? 11 A. Could you -- would you restate that. 12 Q. Yeah. I -- I mean, was it your sense from dealing 13 with the people in the informal work group that it 14 came as bit of a surprise to everybody that there was 15 no -- no response whatever from the legislature? 16 A. Yes. 17 Q. All right. In fact, if my dates are right, I believe 18 the ACLU waited a year -- maybe less than a year, but 19 many months -- until June of 2018 before moving 20 forward with Does II, which was the second lawsuit. 21 And that was brought only to enforce the Does I 22 decisions as to all eligible registrants as opposed to 23 just the six Does I plaintiffs. 24 I went back and checked the amended 25 complaint and the -- the appearances of Miriam and me</p> <p style="text-align: center;">Page 23</p>	<p>1 in the case were all filed in the June of 2018. 2 Do you remember the -- I think you said 3 that it was -- maybe you didn't say. Do you remember 4 what month it was that you and Shelli and the others 5 started meeting in 2018? 6 A. I don't remember the specific month. 7 Q. Okay. Let me show you another exhibit. And can you 8 see that exhibit? 9 A. Yeah, I can. Yes. 10 Q. Okay. This was an -- a -- a document that I think 11 after the work group began -- the informal work group 12 began in the fall of 2018, that I believe we were 13 asked to send to the Attorney General's Office, kind 14 of laying out where we thought the -- the negotiations 15 about a new SORA should go. 16 And I'm wondering if this is a document 17 that was shared with you either by Shelli or by the 18 AG's Office? Is this something you've seen before, do 19 you recall? 20 A. No. This is not something I've seen before. 21 MARKED BY THE REPORTER: 22 DEPOSITION EXHIBIT 5 23 10:27 a.m. 24 BY MR. REINGOLD: 25 Q. Okay. This was a long document that laid out the</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 ACLU's perspective on what would be most useful going 2 forward. And that highlighted some of the science and 3 so on and some of the law. 4 Because at this point Does II had been 5 filed and was moving forward and it also addressed 6 some of the legal arguments. But if you haven't seen 7 it, then I will take it down. Let me stop sharing. 8 I think that that confirms the timing, 9 because this would have been -- this was dated October 10 10th and would have been soon after those meetings had 11 begun. 12 All right. And how would you characterize 13 or describe the discussions that you had in that 14 original work group as -- as to what your goal was for 15 that group? 16 A. Collectively as a -- as the work group? 17 Q. Yes. Yes. 18 A. I think we were trying to come up with some reasonable 19 solutions to address the items that were 20 unconstitutional, and some areas where we agreed that 21 there was better policy than what was enforced at the 22 time. 23 Q. All right. And -- and was the thinking at that time 24 that if you could get some agreements or the -- the -- 25 a sense or an -- at least maybe non-objection of some</p> <p style="text-align: center;">Page 25</p>	<p>1 of the major interested parties, that legislation 2 would have a better chance of being passed? 3 A. Yes. 4 Q. Okay. All right. Okay. And at that point that 5 legislative work group evolved into the more -- more 6 formal one that met intermittently maybe at the end of 7 2018 and then more steadily well into 2019, is that 8 right? 9 A. Yes. That -- that's the bigger group that was in the 10 conference room at PAAM? 11 Q. Yes. 12 A. It -- we ballooned from like six, eight people to over 13 twenty probably. 14 Q. Yes. That's my recollection as well. And you and I 15 were both part of that most meetings, right? 16 A. Uh-huh. Yes. 17 Q. Okay. Okay. And when -- and when you were a delegate 18 in -- or a delegate in that group again -- again, was 19 that something that somebody appointed you to do? Or 20 was that sort of basically part of your job and 21 something that you self-selected to do? 22 A. That was -- I was the senior person in government 23 affairs and I had been in the issue a little bit 24 before. So I, as was part of my job, took that issue 25 as one of my own, personally assigned it to myself. I</p> <p style="text-align: center;">Page 26</p>
<p>1 mean, I was the commander of the unit, but I chose not 2 to delegate it. 3 Q. Okay. And was part of the purpose of that group to 4 try to not just hammer out a new law, but work on one 5 that was more evidence based and that would also cure 6 the constitutional defects identified by the district 7 court and the Sixth Circuit in Does I? 8 A. Principally, I would say it was to address the -- the 9 unconstitutional pieces. That was -- that was -- that 10 was my recollection of it. 11 Q. Okay. 12 MR. JAMISON: Paul, I'm going to place a 13 standing objection on the record. I don't -- I don't 14 see the relevance of much of this with respect to the 15 claims or defenses in the lawsuit. Rather than 16 objecting to every question, there's going to be a 17 standing objection on the record. 18 MR. REINGOLD: All right. 19 BY MR. REINGOLD: 20 Q. All right. And then were there other people from MSP 21 who also attended some of those meetings? When I say 22 MSP, I mean Michigan State Police. 23 A. Yes. 24 Q. And who were those folks? 25 A. Steve Beatty was our -- was general counsel. Julie</p> <p style="text-align: center;">Page 27</p>	<p>1 Agueros was a staff attorney that worked for Steve, 2 you know, in our legal office, so she attended on 3 occasion, myself. And -- it seems like there, you 4 know, somebody from the Sex Offender Registry unit, 5 people that are responsible for the day-to-day 6 operation of the registry, they weren't regular 7 attenders. But I know there were times when some of 8 those folks attended. 9 Q. Do you recall who it was who attended that? 10 A. I can't remember who was running it at the time. It 11 was kind of a -- that position is a little bit of a 12 rotator. 13 Q. Yeah. Yeah, I don't remember either. 14 A. I'd have to check, Paul. 15 Q. Yeah, that's all right. 16 And when you would go to these -- to those 17 meetings, did you have a regular report back to 18 anybody? Either -- either in the MSP were you 19 conveying information about what was happening or to 20 EOJ -- EOG? 21 A. So -- so I should say that, you know, at this point in 22 the process, the bill was no longer assigned by the -- 23 it wasn't assigned to MSP as the lead agency. It was 24 assigned to the EOG. And we were basically like 25 second chair in terms of the, you know, policy</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 development. You know, when bills come through, every 2 bill is assigned to a state agency. EOG had assigned 3 this one to themselves, in my recollection. 4 Q. All right. All right. And -- 5 A. It -- 6 Q. Go ahead, sorry, I didn't mean to interrupt. 7 A. That's all right. Our contact at EOG was Suzy 8 Shkreli, she was a deputy attorney there or -- she 9 worked under Mark Totten. 10 Q. Right. And at this point there wasn't an actual bill 11 that had been introduced yet, is that right? 12 A. That's correct. 13 Q. All right. So when -- when you say the bill, it means 14 there -- there were -- there must have been 15 conversations between EOG and someone in the 16 legislature where they're beginning to think about 17 what they want to do? Is that how it works? 18 A. Yeah. I believe Shelli was in regular contact with 19 the administration as well about the need, you know, 20 the pressing need and giving updates about the case. 21 So I think we were trying to draft a bill to be 22 introduced in that work group. 23 That's why some of the other state pollers 24 were members of the Senate majority policy office. 25 John Shiflett is who comes to mind that was a regular</p> <p style="text-align: center;">Page 29</p>	<p>1 attender. I can't remember who the House person was. 2 Q. Yeah. 3 A. Lindsay Vogelsberg and Suzy, ourselves, and then your 4 -- your team. 5 Q. Okay. Yeah. All right. So -- so what is -- what -- 6 let me just ask again. 7 When -- when we would have a meeting at 8 that -- at that point even if you were secondary and 9 EOG was primary, did you not need to report to them 10 because they were in the room because -- and so they 11 were aware of what was happening? Is that how it 12 worked? 13 A. Yeah. If Suzy would attend the meeting, then we kind 14 of -- there's really no need to report out. If she -- 15 I think there were a couple where she didn't make it 16 so we did do a report out, I'm air quoting that. But 17 it was -- it was nothing formal. 18 Q. Would you just give her a phone call to update her, 19 that sort of thing? 20 A. Yeah, how'd it go, whatever happened, whoever we -- 21 Q. Okay. Was there anybody higher up in the MSP that was 22 also -- that you were also consulting with? A 23 director, deputy director, regional directors, did 24 they get brought in on any of this? 25 A. As part of my job as the commander of government</p> <p style="text-align: center;">Page 30</p>
<p>1 affairs, I would have to update my boss, was the -- 2 God, you'd think I'd remember that. That office has 3 changed titles, too. It was the chief of staff at the 4 time. I don't know what they're calling it now. 5 But it was a major that was part of the 6 executive council, the executive leadership of the 7 department. So I would give them regular legislative 8 updates. And any update that would come from this 9 would just be part of that, like where are we at with 10 SORA. 11 Q. Did you ever meet with them personally? Or was it 12 just through the chief of staff person? 13 A. Most of the time I would just give them -- I was like 14 an agenda item on their regular meeting. 15 Q. And were you -- were you at the meetings to update 16 them? 17 A. Yes. 18 Q. Okay. And who would be attending at those upper level 19 staff meetings? 20 A. The colonel, the lieutenant colonels. At the time we 21 used to call the -- was it coordinating council, I 22 think they called it. The top leadership of the 23 department, all of your -- 24 Q. Okay. How often were those meetings held where you 25 would attend and update them?</p> <p style="text-align: center;">Page 31</p>	<p>1 A. Those meetings were held weekly, but I would only be 2 on the agenda once a month. 3 Q. So -- all right. So it's fair to say that the 4 director -- the -- the colonel knew what was going on 5 in the work group and was kept up to date on the 6 progress of the work group? 7 A. Yeah. I would say they were briefed on it. Whether 8 they retained it, I don't know. 9 Q. Yeah. Okay. And then were there -- were there other 10 meetings with the governor's office other than with 11 Suzy, the one who was participating? 12 A. No. I mean, we had -- I can only think of one time 13 maybe when Mark Totten was in a meeting. But the rest 14 of the time it was just with Suzy. 15 Q. Yeah. Okay. And is your recollection the same as 16 mine, that Suzy almost never said a word at the 17 meeting? 18 A. Yes. 19 Q. All right. During the course of the legislature work 20 group discussion in 2018 and '19, did you have the 21 feeling that there was progress being made? To put it 22 a different way, did the work group identify some 23 areas of potential agreement? 24 A. Yes. 25 Q. And -- and was some of that progress on the -- the</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 evidence based side in addition to on the 2 constitutional side? That is, was there a -- a sense 3 that the -- the science showed, for example, that -- 4 that a -- that putting -- that assigning people to the 5 registry based on their offense of conviction wasn't 6 -- didn't square with the research that -- that people 7 who had been more serious offenses posed a higher 8 risk? 9 Do you remember talking about that and if 10 there was some agreement on that? 11 MR. JAMISON: I'm going to object to the 12 question as vague, lack of foundation, and compound 13 question. 14 BY MR. REINGOLD: 15 Q. Let me try to simplify it. I asked if some of the 16 progress that we made was evidence based. Why don't 17 you try to answer that first and I'll give you 18 examples. 19 MR. JAMISON: Object as vague. 20 BY MR. REINGOLD: 21 Q. You can answer. 22 A. I remember that was your presentation. I don't 23 remember that we -- I don't remember the MSP or the 24 EOG, you know, signing off that that was our position. 25 Q. Was there a suggestion or any agreement that it would</p> <p style="text-align: center;">Page 33</p>	<p>1 be helpful to have clearer definitions about what to 2 report? 3 A. Yes. 4 Q. That easier reporting could reduce law enforcement 5 time? 6 A. Yes. 7 Q. That school exclusion zones had proven to be not 8 helpful? 9 A. I want to say yes on that one. 10 Q. Okay. That maybe certain crimes that were registrable 11 should be removed? 12 A. Yes. 13 Q. That it might be helpful to reduce the amount of youth 14 on the public registry? 15 A. I don't remember that one. 16 Q. Okay. And do you recall if there was some agreement 17 that doing tiers based on actual risk assessments 18 rather than offense of conviction would be more in 19 line at least with what the science told us? 20 A. I would say -- we did see -- we did agree that 21 timelines -- there was a -- timelines to establish a 22 pathway off was in agreement. I would say that. 23 We never really -- as you recall, we didn't 24 have the faith in the risk assessment process that you 25 guys did, you know, based on our experience in the</p> <p style="text-align: center;">Page 34</p>
<p>1 Department of Corrections. It's -- it -- it hasn't 2 been a great thing in DOC. So we were -- my 3 recollection is we were skeptical of that as a -- a 4 reason. But a pathway off we did agree on. 5 Q. Yeah. Okay. That's fair. Do you think that if the 6 process had been allowed to go forward with the -- 7 with the work group, do you think there was enough 8 progress that it might have formed a basis for an 9 amended law if the work group had been allowed to 10 continue its work? 11 A. Yes. 12 Q. Is it also true that in the course of those meetings, 13 the ACLU provided the group with a wealth of social 14 science research about registries to the participants 15 in the group? 16 MR. JAMISON: I'm going to object to the 17 question as vague. 18 THE WITNESS: Yes. It was -- you guys 19 provided a lot of. 20 BY MR. REINGOLD: 21 Q. All right. And some of the studies that we provided, 22 you can just say yes or no to each of these if you 23 remember. That sexual recidivism -- let me start that 24 again. 25 Sexual recidivism rates did not change when</p> <p style="text-align: center;">Page 35</p>	<p>1 registries were introduced in the 1990s and early 2 2000s? 3 A. I recall that, yes. 4 Q. And that registries themselves had no discernable 5 effect on sexual recidivism and, if anything, might 6 increase it? 7 A. I recall that presentation, yeah. 8 Q. All right. That studies said that? 9 A. Yes. I recall you saying -- I'm not saying we agreed 10 to any of this. I remember you guys presenting it 11 extensively. 12 Q. Yes. And I believe we actually gave you many of the 13 studies or summaries of the research. Also that 14 registries tended to increase non-sexual recidivism 15 because registrants couldn't reintegrate into the 16 community due to restrictions that impaired their 17 ability to find stable housing and jobs? 18 A. Yes. 19 Q. And do you know if that was consistent with the 20 experience of the DOC? 21 A. I don't know, Paul. 22 Q. That's all right. I don't want you to speculate if 23 you don't know. 24 Do you also remember a -- a study about 25 recidivism rates of sexual offenders were not, quote,</p> <p style="text-align: center;">Page 36</p>

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 frightening and high as the U.S. Supreme Court had 2 once noted, but were in fact lower than all other 3 categories of felonies except murderers? 4 And when I say lower than all other 5 categories, I mean people re-offending or getting 6 reconvicted of the same crime for which they went to 7 prison. So murderers committing a new murder or 8 robber committing a new robbery. 9 A. I recall the presentation, yeah. 10 Q. Okay. Do you recall the -- the studies that showed 11 that most people on the registry will never be 12 convicted of a second sexual offense? 13 A. Yes. 14 Q. And the risk of sexual recidivism drops with age? 15 A. Yes. 16 Q. And that it also drops with people being time free in 17 the community without recidivating? That is, they're 18 released, they live free in the community, and don't 19 commit a new crime; that their risk of ever committing 20 a crime drops the longer they are time free in the 21 community. 22 A. That one -- I don't remember that specifically, no. 23 Q. Okay. Yeah. And then do you recall us presenting the 24 compiled research and the findings of the American Law 25 Institute which proposed a model SORA with no public</p> <p style="text-align: center;">Page 37</p>	<p>1 registry based on its review and assessment of the 2 best research in the field? 3 A. Yes. 4 Q. And is it true that much of that material was made 5 available to you and to the other members of the work 6 group and could be taken back to their agencies and 7 shared with their agencies if they wished? 8 A. Yes, that's true. 9 Q. Okay. So it's fair to say that the ACLU spent a lot 10 its time during and between meetings sending things to 11 you, trying to educate the work group participants on 12 what the current social science research revealed 13 about people on the registry? 14 A. Yes. 15 Q. And doesn't that research also show that the vast 16 majority of people on the registry are not like the 17 highest risk offenders for which these laws are named, 18 namely people who had stalked, kidnapped, raped, and 19 murdered young children? 20 A. Yes. 21 Q. All right. Is it true that there came a time -- I 22 believe it was around September 2019 -- where the 23 talks came to a halt? 24 A. I remember them coming to a halt. I don't remember 25 the timeline specifically, but yes.</p> <p style="text-align: center;">Page 38</p>
<p>1 Q. I looked in my calender. The last entry I could see 2 was 2019, but I don't know that that was the actual 3 last date. It might have been August, you know, 4 something like that. I might have had it scheduled 5 out. 6 A. Right. 7 Q. Were there any discussions that you were part of about 8 ending the talks? 9 A. No. 10 Q. And -- and do you know why the talks were stopped? 11 A. I don't know why they stopped. I was just, you know, 12 I would get the notice and we were attending based on 13 the invite. You know, it wasn't like we got a 14 direction or anything to -- that they were shutting 15 down. I can't even recall why they -- why we stopped 16 meeting, honestly. 17 Q. And did you make any inquiry as to why the work group 18 had stopped? 19 A. I didn't. 20 Q. Okay. And do you know if the impetus to stop the work 21 group discussions came from the legislative branch or 22 the executive branch or both? 23 A. I don't. 24 Q. Okay. Was it around the time -- did -- did -- did the 25 end of the work sessions come about at around the</p> <p style="text-align: center;">Page 39</p>	<p>1 time, if you remember, that the governor was being 2 mentioned in the press as a possible VP candidate if 3 Biden were to be elected in 2020? 4 A. I remember the open source reports, but the timing I 5 don't specifically remember. 6 Q. Let me bring up an exhibit on that. Let me share the 7 screen. Can you see that? 8 A. Not yet. 9 Q. Sorry, I forget the last step. How about now? 10 A. Yes. I got that one, Michigan Advance. 11 MARKED BY THE REPORTER: 12 DEPOSITION EXHIBIT 3 13 10:50 a.m. 14 BY MR. REINGOLD: 15 Q. Yes. This was a -- an outfit called Michigan Advance 16 that is dated September 6th, 2019, and talks about 17 Whitmer being -- would make a fine running mate for 18 Vice President Joe Biden. This was based on something 19 that a New Jersey -- the New Jersey politicians had 20 been talking about and it made the national news and 21 got picked up in Michigan through Michigan Advance. 22 It mentions that the best match for Biden 23 as a vice presidential running mate might be Michigan 24 governor Gretchen Whitmer. She had just earned 25 acclaim for banning flavored e-cigarettes in Michigan.</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 She was a representative for reproductive rights. She 2 was someone who had been sexually assaulted herself in 3 college. And the conclusion was she might be a match 4 made in heaven, I think it might happen. 5 Is that the kind of press that you remember 6 seeing at around that time? 7 A. Yes. Not this -- not this particular article. But I 8 -- more bland sources, like, you know, MRS and -- 9 Q. Yeah. 10 A. -- the News and Free Press, yeah. 11 Q. From your vantage point in government affairs in the 12 Michigan State Police, were you seeing signs in any 13 way that the governor's office or the legislature were 14 concerned about the political repercussions of making 15 SORA more lenient -- or as we would say, evidence 16 based -- in order to cure its constitutional defects? 17 A. No. I would say no to that question. 18 Q. What was your sense about why it was taking so long 19 for a bill to get drafted and be introduced? 20 A. You know, I felt like we were -- I think that was just 21 fatigue. I assume there was just a fatigue about the 22 whole issue and the lack of any progress with the 23 legislative, you know, the bill drafters, and the 24 people from the policy offices and EOG. 25 I thought -- honestly, I was taking it as a</p> <p style="text-align: center;">Page 41</p>	<p>1 break just due to fatigue because there was -- I guess 2 it would be speculative for me to say what the 3 legislative -- what the legislators -- I mean, the 4 feeling was that, you know, the Republicans in the 5 control were only open to a certain -- bandwidth for a 6 certain change, basically just the bare minimums to 7 accommodate the unconstitutional pieces. 8 We had wanted to go a little further. And 9 I thought that we were -- I thought we ended or were 10 taking a break due to fatigue and just there was no 11 progress. That was my feeling. 12 Q. Okay. 13 A. And I wasn't raising my hand, let's start the Sex 14 Offender Registry work group again. I freely admit 15 that. 16 Q. Why was that? 17 A. Similar feelings. It was sort of a -- a, you know, it 18 began to feel like we were spinning our wheels. And 19 this wasn't the only issue on our plate at the time. 20 So it was just one thing that I had to deal with, so. 21 Q. So was the sense that SORA as an issue was more 22 charged or more toxic maybe politically than the other 23 kinds of bills that come that relate to the state 24 police? 25 I mean, to give you an example, you know,</p> <p style="text-align: center;">Page 42</p>
<p>1 there's been, you know, there's been over the past 2 several years a bunch of bills that made it through, 3 often with bipartisan support, you know, clean slate, 4 which made expungement easier, getting rid of the 5 judicial veto on lifers, making parole a little bit 6 easier for people with medical problems. 7 All of those had gone through without, you 8 know, huge delays or changes and yet this one, there 9 was nothing. Can you -- can you tell us what you 10 think about that. 11 MR. JAMISON: I'm going to object to that 12 question as vague. 13 BY MR. REINGOLD: 14 Q. What I'm asking is what made SORA different, if you 15 know? Or what do you think made SORA different? 16 A. In my experience in the policy office, it was -- it 17 had more of a charge to it because, you know, the 18 public information and the public outcry and the 19 connection to the registry is strong. And it gives -- 20 it gives people a -- a sense of security, if that's -- 21 whether that's true or false or whatever. 22 And I think there's political, you know, 23 there was perceived political backlash for making 24 sweeping changes or getting rid of it. 25 Q. All right. I -- are you aware that after the</p> <p style="text-align: center;">Page 43</p>	<p>1 legislative work group shut down -- and it certainly 2 wasn't the plaintiffs who shut it down -- that the 3 plaintiffs felt like they had no choice but to go back 4 to court? Were you aware that we geared up again in 5 the courts once that happened? 6 A. I remember that start, yes. 7 Q. Okay. And then in February of 2020, the court ruled 8 that the parts of the 2011 SORA that were held to be 9 unconstitutional in Does I, as to the named plaintiffs 10 in Does I, were now unconstitutional as to all 11 eligible registrants across the entire registry. 12 I assume that you were aware of, and 13 probably even read the court's opinion and order that 14 came out on February 14th, 2020? 15 A. I didn't read the opinion. 16 Q. All right. Would you have been getting summaries of 17 it or something like that so you were -- 18 A. Yeah. 19 Q. -- in the loop? 20 A. Uh-huh. 21 Q. Okay. I'll read you a quote from that opinion, 22 because it will be the foundation for my next 23 question. The court said for several years 24 registrants have been forced to comply with 25 unconstitutional provisions of SORA. The parties in</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 this court expected that the Sixth Circuit ruling 2 would spur legislative action. And for some time it 3 appeared that the legislature was poised to pass the 4 new and comprehensive statute, obviating the need for 5 this opinion. 6 Unfortunately, the legislature was not able 7 to finalize the new registration statute. Faced with 8 a continued violation of their rights, plaintiffs 9 returned to this court to remedy defendants' ongoing 10 violation. The court's duty is to invalidate those 11 portions of SORA that violate the constitution. 12 For the record, this was ECF eighty-four. 13 It was filed by the court on 2/14/2020. It's page ID 14 eighteen oh four, paragraphs -- of the opinion page 15 twenty-eight of thirty-two. 16 At that point to your knowledge, did that 17 opinion -- or let me ask it this way. 18 When the court did that, it also said that 19 it was going to grant a broad injunction. It was 20 basically going to say that anybody who was a pre-2011 21 registrant would come off the registry entirely. But 22 the court said we're not going to activate the 23 injunction for another sixty days to give the 24 legislature time to pass a new law. 25 Were you aware of those two things? That</p> <p style="text-align: center;">Page 45</p>	<p>1 the injunction would be issued, but that it would be 2 delayed for sixty days? 3 A. I remember parts of what you said about the coming 4 off, but I don't remember specifically -- this would 5 have been in the legal shop like the -- with Steve and 6 Julie, the lawyers and -- and the unit itself. 7 Q. All right. After February of 2020, was there a pickup 8 in the pace of -- of activity of moving on a proposed 9 bill? Or were you out of the loop by then? 10 A. This is the down -- this is where I'm in the downslide 11 of, you know, I -- at some point a bill was 12 reintroduced. And I can't remember exactly what time, 13 you know, when the -- whatever bill did eventually 14 pass. I think it passed after I retired. 15 Q. Yes, that's true. 16 A. And honestly, I couldn't even tell you who the 17 sponsors were for that bill. So I don't remember any 18 movement on this, Paul, from February until I retired 19 in July of 2020. 20 MR. JAMISON: Paul, can we take a quick 21 break. 22 MR. REINGOLD: Sure. 23 (Off the record 11:00 a.m.) 24 (Back on the record at 11:04 a.m.) 25 BY MR. REINGOLD:</p> <p style="text-align: center;">Page 46</p>
<p>1 Q. Just before we broke, I was asking about the -- the 2 timing of the legislation and the effect of the 3 injunction being delayed from February for two months. 4 And you had said that you weren't aware of any effort 5 to speed up the legislation at that point. 6 Did you -- do you also remember that by 7 April of that year, COVID was raging and the 8 legislature stopped being in session for a while. And 9 the court also entered an order that suspended the 10 enforcement of SORA for the duration of the pandemic. 11 Do you remember that happening? 12 A. Yes, I remember that. 13 Q. And was that the subject of discussion within the 14 department? 15 A. Not -- not in my office. 16 Q. Okay. Who -- were you aware of it generally? I mean, 17 were people anxious about what was going to happen? 18 A. I think people were anxious about a lot of things. 19 But specific to the SOR, I think the SOR unit itself, 20 they were reconfiguring or how everything was going to 21 happen or not happen or what the -- how everything was 22 going to go forward. I remember that. 23 Q. Yeah. Okay. And then you said you left in July of 24 2020? 25 A. Yes.</p> <p style="text-align: center;">Page 47</p>	<p>1 Q. By that time had the bill been reported out? Or was 2 it in the House judiciary committee or on its way to 3 the House judiciary committee? Do you recall? 4 A. I don't even recall. 5 Q. Let me -- there were hearings that summer in the House 6 judiciary committee. Let me pull up a document just 7 to see if you were part of this or not. Can you see 8 that document? 9 A. Yes. 10 MARKED BY THE REPORTER: 11 DEPOSITION EXHIBIT 1 12 11:06 a.m. 13 BY MR. REINGOLD: 14 Q. So this was dated May 6th. And this comes from the 15 department of state police and it's to the chair and 16 the House judiciary committee. And I believe this was 17 a time when the hearings were virtual and people could 18 attend by Zoom or, as always the case, they could also 19 submit written testimony. Is this a document that 20 you've seen before? 21 A. Can you scroll up. 22 Q. Yes. 23 A. I'm sorry, down. 24 Q. I'm sorry. 25 A. Yes. I remember this document.</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 Q. And is this one that was written by Steve Beatty?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did you have input into it? Or were you on</p> <p>4 the sidelines by this time?</p> <p>5 A. My input would have been at the top, when -- the piece</p> <p>6 that we were -- how it was phrased at the top, where</p> <p>7 we were in -- yes, supportive of the intent of HB.</p> <p>8 That's my way in there. The technical stuff is all</p> <p>9 the attorney.</p> <p>10 Q. All right. Is yours also -- also looking forward to</p> <p>11 addressing several issues with SORA in an effort to</p> <p>12 improve efficiency and functionality for both</p> <p>13 offenders and law enforcement?</p> <p>14 A. Yes.</p> <p>15 Q. And would that go to the -- the better definitions and</p> <p>16 the time restrictions and so on?</p> <p>17 A. Yes. The product of the work group, you would say.</p> <p>18 Q. Yeah. Okay. Were there other things that you would</p> <p>19 include in that? Like maybe a path off, that sort of</p> <p>20 thing?</p> <p>21 A. We didn't include that in here, but I know that we</p> <p>22 talked about that in the meeting.</p> <p>23 Q. Okay. And --</p> <p>24 A. It --</p> <p>25 Q. -- was that something that you think that the</p> <p style="text-align: center;">Page 49</p>	<p>1 department would have supported?</p> <p>2 A. Again, we -- our support is, you know, our support is</p> <p>3 kind of handed to us by the executive office. So if</p> <p>4 Suzy was okay with it, then yes.</p> <p>5 Q. Is this typical of a -- of -- what gets produced in --</p> <p>6 in House or Senate conference hearings?</p> <p>7 A. This was typical of the time. I mean, when I was</p> <p>8 commander I much preferred, obviously, in-person</p> <p>9 testimony at the table. But this was -- this is our</p> <p>10 written testimony from -- or our submission to the</p> <p>11 committee, right?</p> <p>12 Q. Yes. And but this is -- this was one where you could</p> <p>13 have testified by Zoom, right?</p> <p>14 A. Uh-huh.</p> <p>15 Q. And were you asked not to? Do you remember?</p> <p>16 A. No. I don't remember being -- no, I don't remember</p> <p>17 that.</p> <p>18 Q. But basically it sounds like this was Beatty's</p> <p>19 bailiwick, as it were?</p> <p>20 A. The bullet points in the middle, I would say, yeah.</p> <p>21 Q. Okay. All right. Okay. I will stop sharing that.</p> <p>22 And what -- why did you choose not to do a Zoom</p> <p>23 meeting with the House judiciary committee?</p> <p>24 A. You know, I don't recall what -- I don't recall the</p> <p>25 decision going even into the committee, to be honest</p> <p style="text-align: center;">Page 50</p>
<p>1 with you.</p> <p>2 Q. You mean even to file the written testimony?</p> <p>3 A. Yeah. I don't remember what -- just reading that, it</p> <p>4 just refreshed my memory about that. I don't remember</p> <p>5 a specific conversation about why we didn't -- written</p> <p>6 testimony as opposed to the Zoom.</p> <p>7 Q. All right. Was it your sense at this point that both</p> <p>8 EOG and the legislature were going to be delighted if</p> <p>9 they could slow this down until after the election?</p> <p>10 MR. JAMISON: Objection, lack of</p> <p>11 foundation.</p> <p>12 BY MR. REINGOLD:</p> <p>13 Q. You can answer.</p> <p>14 A. No.</p> <p>15 Q. And why not?</p> <p>16 A. Because they were -- they were -- I mean, the hearings</p> <p>17 were happening. I think the legislature was moving --</p> <p>18 my recollection is the legislature was trying to move</p> <p>19 in reaction to the -- the -- I can't -- opinion or</p> <p>20 whatever it was in 2020 from the court.</p> <p>21 I thought there was an understanding that</p> <p>22 they were trying to do something to satisfy or be in</p> <p>23 compliance with the court ruling.</p> <p>24 Q. But you also said that you weren't aware of any</p> <p>25 movement that was spurred by that.</p> <p style="text-align: center;">Page 51</p>	<p>1 A. Yeah, I -- help me out a little bit or what is that</p> <p>2 exactly --</p> <p>3 MR. JAMISON: Yeah, that's not really a</p> <p>4 question there, Paul.</p> <p>5 BY MR. REINGOLD:</p> <p>6 Q. I thought that you had said earlier that after the</p> <p>7 opinion came down that there was not a lot of movement</p> <p>8 and -- and that -- until the time you retired, that</p> <p>9 there wasn't much going on?</p> <p>10 A. Yes. And I'm -- so what I'm -- in terms of that, I'm</p> <p>11 talking about like our work group stopped meeting.</p> <p>12 You know, we stopped having these regular contacts</p> <p>13 that we had had up to that point.</p> <p>14 Q. Okay. I misunderstood. I thought you were saying</p> <p>15 that the legislature wasn't acting.</p> <p>16 A. Yeah. I don't -- the bill -- and honestly, that --</p> <p>17 just seeing that document reminded me that it was</p> <p>18 Lower that was even the sponsor. So that, yeah, that</p> <p>19 was -- I remember then that was assigned to -- that</p> <p>20 bill when it came out was assigned to EOG.</p> <p>21 And yeah, I don't remember why -- I don't</p> <p>22 remember why we did the written testimony or what --</p> <p>23 anything around that decision.</p> <p>24 Q. All right. Isn't it fair to say if they were worried</p> <p>25 that an injunction was going to be issued in sixty</p> <p style="text-align: center;">Page 52</p>

13 (Pages 49 to 52)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 days and that they wanted it to go quickly, they</p> <p>2 certainly were in a position to make it go quickly?</p> <p>3 MR. JAMISON: Objection, lack of</p> <p>4 foundation.</p> <p>5 THE WITNESS: They meaning the legislature?</p> <p>6 BY MR. REINGOLD:</p> <p>7 Q. Yeah, the legislature and the governor.</p> <p>8 A. Yeah. I mean, I can't -- I think that -- that would</p> <p>9 be speculative on my part.</p> <p>10 Q. All right. All right. And when House bill 5679 was</p> <p>11 introduced, how similar was it to the outgoing bill,</p> <p>12 the SORA 2011, if you recall?</p> <p>13 A. I don't recall.</p> <p>14 Q. Did it -- it still include the school exclusion zones?</p> <p>15 Do you remember that?</p> <p>16 A. I don't recall.</p> <p>17 Q. Okay. And it still used the same tiering system?</p> <p>18 A. I don't recall the bill at introduction --</p> <p>19 Q. Okay.</p> <p>20 A. -- or passage, frankly.</p> <p>21 Q. Okay. It was passed long after you were gone, so.</p> <p>22 Okay.</p> <p>23 Did you monitor in any way the House</p> <p>24 judiciary committee hearing? Were you observing some</p> <p>25 of that online?</p> <p style="text-align: center;">Page 53</p>	<p>1 A. I did watch at least one of them that I recall.</p> <p>2 Q. And do you recall that at those hearings, I believe</p> <p>3 there were -- between the written testimony and the</p> <p>4 in-person hearings, there was something like a hundred</p> <p>5 seventy submissions and that --</p> <p>6 A. Yeah.</p> <p>7 Q. -- only one fully supported the bill. Is that your</p> <p>8 recollection?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And it's also true that the Attorney General's</p> <p>11 Office also put in a submission that was critical of</p> <p>12 some of the bill in some respects. Do you remember</p> <p>13 that?</p> <p>14 A. That I don't remember.</p> <p>15 Q. I want to ask you about that. I'll pull that one up,</p> <p>16 too. This is Exhibit 2. Can you see that one?</p> <p>17 A. Yes.</p> <p>18 MARKED BY THE REPORTER:</p> <p>19 DEPOSITION EXHIBIT 2</p> <p>20 11:17 a.m.</p> <p>21 BY MR. REINGOLD:</p> <p>22 Q. This is from the Attorney General and it's to the</p> <p>23 committee. This one is coming in a little later, May</p> <p>24 11th -- or I guess around the same time, May 11th.</p> <p>25 This is one you never saw?</p> <p style="text-align: center;">Page 54</p>
<p>1 A. I don't recall this document.</p> <p>2 Q. Okay. The paragraph that's now in the center says</p> <p>3 it's my opinion that the bill does not sufficiently</p> <p>4 address either my concerns or those of the federal</p> <p>5 court in the key areas identified in the previous</p> <p>6 paragraph.</p> <p>7 The bill needs considerably more work if</p> <p>8 the state is going to avoid future litigation over the</p> <p>9 constitutionality of the registry. And because courts</p> <p>10 tend to analyze the registry as a whole, any major</p> <p>11 area that remains insufficiently addressed could cause</p> <p>12 the entire act to fall.</p> <p>13 And then the Attorney General goes over the</p> <p>14 specific parts that she thinks are still</p> <p>15 unconstitutional, including the lack of individualized</p> <p>16 risk assessment, the geographic exclusion zones which</p> <p>17 were still in the bill, and the tiering based on</p> <p>18 convictions, and the in-person reporting requirements.</p> <p>19 Did Dana Nessel have any direct contact</p> <p>20 with the MSP, to your knowledge, about this</p> <p>21 submission?</p> <p>22 A. No. The only contact we had with the AG's Office was</p> <p>23 with Eric Restuccia.</p> <p>24 Q. And was his contact through the EOG? Or was his</p> <p>25 contact separate?</p> <p style="text-align: center;">Page 55</p>	<p>1 A. It was part of the -- it was part of the group.</p> <p>2 Q. The EOG group?</p> <p>3 A. Yes.</p> <p>4 Q. And was he attending those meetings as the</p> <p>5 governor's -- when you would go to the governor's</p> <p>6 shop?</p> <p>7 A. He -- he -- yes. He attended -- so I don't know all</p> <p>8 of them, but he attended some of them. He was at some</p> <p>9 of our state meetings, too.</p> <p>10 Q. Yeah, he was. That's right.</p> <p>11 Are you aware that the Attorney General was</p> <p>12 taking a position opposite to what the EOG was</p> <p>13 promoting?</p> <p>14 A. I -- I probably was at the time. Honestly, I don't</p> <p>15 clearly remember that. But --</p> <p>16 Q. Okay.</p> <p>17 A. -- just reading that, I can see -- that's why Eric</p> <p>18 came to mind.</p> <p>19 Q. And what the Attorney General said turned out to be</p> <p>20 prescient. She predicted the future accurately, would</p> <p>21 you agree?</p> <p>22 A. Yes. It appears, yes.</p> <p>23 Q. Let me see what else I want to cover. Why is it that</p> <p>24 you prefer to testify in person rather than submit</p> <p>25 written testimony if you can or if you're allowed to?</p> <p style="text-align: center;">Page 56</p>

14 (Pages 53 to 56)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 A. You know, I generally think it's the right thing to 2 do. It allows, you know, address the legislators 3 directly and then answer questions for or against 4 directly right there. To me it's more meaningful and, 5 you know, we don't lose anything in context or 6 communication. 7 Q. The submission from the MSP that I showed you didn't 8 have a signature at the bottom. Is that typical? 9 A. Yes. On the -- in the MSP memo format, there's -- 10 that's typical. 11 Q. Okay. Did anyone think that there was a problem, 12 given that Colonel Gasper was a defendant in Does II 13 while this was happening and was being represented by 14 Eric Restuccia and other members of the Attorney 15 General's Office, and yet the policy that was being 16 suggested by the Attorney General herself conflicted 17 with the legal advice that Colonel Gasper was getting? 18 Did that get discussed in any way, shape, or form? 19 A. Not -- 20 MR. JAMISON: Objection, lack of foundation 21 and to the extent that it asks for processes protected 22 by privilege and potentially attorney/client 23 communication. 24 BY MR. REINGOLD: 25 Q. You can answer.</p> <p style="text-align: center;">Page 57</p>	<p>1 A. That wasn't at my level. 2 Q. Do you think policy should be made based on what's 3 happening in a lawsuit as opposed to what's actually 4 best for the public down the road? 5 MR. JAMISON: Objection, lack of 6 foundation. 7 BY MR. REINGOLD: 8 Q. You can answer. 9 A. Generally -- no. Generally, I think good public 10 policy shouldn't be driven by legal action. 11 Q. Should be driven by? 12 A. It should not be driven by legal action, that's my 13 opinion. 14 Q. Okay. Do you know if there were any studies done by 15 the department during the period or after the period 16 that the SORA enforcement was suspended? 17 A. No. I'm not aware of any studies. 18 Q. What I'm asking is that presented an opportunity to 19 see if not having reported increased or decreased or 20 had any effect on the number of sexual offenses being 21 committed, right, or recidivated? 22 A. Yeah. I could see the window, but I -- to my 23 knowledge, that -- there were no studies. 24 Q. Okay. And the amended bill that we're talking about 25 was passed by the House, I believe the only change was</p> <p style="text-align: center;">Page 58</p>
<p>1 taking out the school zones, is that right? Do you 2 know? 3 A. I don't know. It passed after I left the office. 4 Q. Okay. And it's true, isn't it, that it passed at the 5 very end of the lame duck session in late December and 6 was signed by the governor on one of the very last 7 days of the month? 8 A. I wasn't tracking it. 9 Q. Okay. If that were the case, would you agree that 10 that's perfect timing to pass a bill that you know 11 might have political backlash, to use your words? 12 MR. JAMISON: Objection, lack of 13 foundation. 14 THE WITNESS: Yes, I agree with you. Bills 15 passed in lame duck are -- they are what they are. 16 BY MR. REINGOLD, 17 Q. All right. It's passed in a way -- it's designed to 18 make it as invisible as possible for the public? 19 MR. JAMISON: Objection, lack of 20 foundation. 21 BY MR. REINGOLD: 22 Q. You can answer. 23 A. Yes. 24 Q. Are you aware of any major backlash or political 25 repercussions as a result of passing the law, even</p> <p style="text-align: center;">Page 59</p>	<p>1 though it eliminated the school zones? 2 A. No. 3 Q. Did you ever hear if anybody else was surprised about 4 that? I mean, that's one of the things they were 5 hugely worried about and, at least as far as I know, 6 nobody said boo about it. And I wondered if you ever 7 talked to anybody about that or heard -- 8 A. No. 9 Q. -- comment about it? No? Okay. 10 A. I didn't. You know, honestly, Paul, I didn't track it 11 after I left. So I didn't have any of that 12 conversation. 13 Q. Okay. You said earlier that you worked for sixteen 14 years in the field as a trooper, right? 15 A. Correct. 16 Q. And most of that -- maybe all of that -- was after the 17 original SORA was passed, is that right? 18 A. That's right. 19 Q. And during that time SORA was amended repeatedly, 20 right? 21 A. That's right. 22 Q. And in 2011, that's when it was amended in a 23 significant way, when Michigan decided to comply with 24 the federal SORNA? 25 A. Yes.</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 Q. That's the one that was challenged in Does I?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you know if the MSP was consulted about that</p> <p>4 decision back in 2011? Whether it was a -- whether it</p> <p>5 would be a good thing for the Michigan State Police to</p> <p>6 have a SORNA -- compliant SORA?</p> <p>7 A. I don't. At that point I was just a -- a field</p> <p>8 trooper.</p> <p>9 Q. Okay. Let me ask you a few last questions about being</p> <p>10 a field trooper. Once SORA came in and it got bigger</p> <p>11 and bigger, to the point where, I think when you were</p> <p>12 still in the field, it probably had close to forty</p> <p>13 thousand people on the registry, did you personally</p> <p>14 use the SORA database to any extent in your own field</p> <p>15 work?</p> <p>16 A. No.</p> <p>17 Q. And why not?</p> <p>18 A. For me, it wasn't a value add to anything that I would</p> <p>19 have been working on. You know, I was fortunate at</p> <p>20 some of the work sites that I worked at there was a</p> <p>21 single individual person, usually a sergeant, was</p> <p>22 assigned the Sex Offender Registry. So he would</p> <p>23 handle on the reporting, those reporting days. He</p> <p>24 kind of handled the whole thing. So we didn't -- it</p> <p>25 wasn't something that I had to consult for any --</p> <p style="text-align: center;">Page 61</p>	<p>1 Q. And --</p> <p>2 A. -- any purpose.</p> <p>3 Q. Was that true at most of the places you were posted?</p> <p>4 A. Say that again.</p> <p>5 Q. Was that true at most of your posts?</p> <p>6 A. It was true at two of them, the two that I worked at.</p> <p>7 Q. And what you're saying -- I want to make sure I got it</p> <p>8 right -- is that there would be one person who would</p> <p>9 be designated or volunteer to be the SORA contact</p> <p>10 person and that person is the one who would get</p> <p>11 trained in all things SORA?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. So it wasn't as if all troopers in the field</p> <p>14 were using or were conversant with the program that</p> <p>15 they were trained on?</p> <p>16 A. That's correct.</p> <p>17 Q. And that was a program that took a lot of work to</p> <p>18 become proficient in, wasn't it?</p> <p>19 A. It was. I think that's why they went to the single</p> <p>20 point of contact. And, you know, then the field</p> <p>21 troopers would get involved, say, for example, if</p> <p>22 there were -- after the reporting periods would come</p> <p>23 and there were people that hadn't reported or there</p> <p>24 were other -- whatever technical violations were out</p> <p>25 there, then we would be asked to go follow up, try to</p> <p style="text-align: center;">Page 62</p>
<p>1 find, you know, track these people down, see where</p> <p>2 they were now, getting them to update the address.</p> <p>3 Q. Sweeps they were called?</p> <p>4 A. Yeah.</p> <p>5 Q. Yeah. And when you did that, were you using your own</p> <p>6 databases to go find them and that sort of thing? Or</p> <p>7 did someone provide the information to you?</p> <p>8 A. We would use, you know, any investigative, you know,</p> <p>9 the databases we had available were LEIN, court</p> <p>10 records, and the Sex Offender Registry itself.</p> <p>11 Usually, that was -- if their address in there would</p> <p>12 be wrong, that's why we would be looking for them.</p> <p>13 Q. So did you -- in all the time that you were a trooper</p> <p>14 on any cases, did you have occasion to use the</p> <p>15 registry through the program provided to the Michigan</p> <p>16 State Police?</p> <p>17 A. You mean use the -- use our MSP Sex Offender Registry?</p> <p>18 Q. Yes.</p> <p>19 A. No.</p> <p>20 Q. Do you know if -- if that was true for most other</p> <p>21 troopers as well? I mean, were people -- did they</p> <p>22 have enough resources that they didn't need the</p> <p>23 registry to do their investigations and so forth?</p> <p>24 A. You know, in -- in the -- on my shift, I can tell you</p> <p>25 that, you know, nobody regularly consulted the</p> <p style="text-align: center;">Page 63</p>	<p>1 registry for, you know, investigative -- an</p> <p>2 investigative purpose.</p> <p>3 MR. REINGOLD: All right. All right. I</p> <p>4 don't have any other questions. This was shorter than</p> <p>5 I expected and I'm done. Thank you.</p> <p>6 MR. JAMISON: I have what I hope will be a</p> <p>7 few questions.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. JAMISON: Those famous last words from</p> <p>10 an attorney. We'll see if that holds true.</p> <p>11 EXAMINATION</p> <p>12 BY MR. JAMISON:</p> <p>13 Q. First, I want to ask you a little bit about the work</p> <p>14 group. And that's the work group that you testified</p> <p>15 to previously that related to sort of working through</p> <p>16 a new SORA legislation.</p> <p>17 I think you've already said this, but ACLU</p> <p>18 participated in that work group, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And do you remember who from the ACLU participated?</p> <p>21 A. In the beginning, Shelli Weisberg, Kim, I can't</p> <p>22 remember, Kim -- Shelli's number two there in Lansing.</p> <p>23 I'm drawing a blank on her last name. And Paul was</p> <p>24 eventually part of it. Those were the --</p> <p>25 those were -- oh, Miriam was the other one.</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)

Fitzgerald, Timothy
6/28/2023


FIRM #8093

<p>1 Q. And do you know Shelli and Kim, were they lobbyists?</p> <p>2 A. Yes.</p> <p>3 Q. And do you know are Paul and Miriam lobbyists?</p> <p>4 A. I don't think so.</p> <p>5 Q. Okay. Do you recall whether the work group considered</p> <p>6 shorter registration terms?</p> <p>7 A. As part of the -- as part of the pathway off, I -- I</p> <p>8 do recall that.</p> <p>9 Q. Can you explain what you recall about that.</p> <p>10 A. You know, I remember that we were looking at, you</p> <p>11 know, tiering the offenses and then offering, you</p> <p>12 know, quicker pathways off for what would be the</p> <p>13 lower -- less -- less violent or less, you know, the</p> <p>14 lower tiers of the lower end crimes on the thing,</p> <p>15 where they could be off.</p> <p>16 And my recollection is we were starting at</p> <p>17 like a ten, fifteen, and twenty-five year and I know</p> <p>18 Shelli's were much different than that. Shelli's was</p> <p>19 like, you know, two, five, and ten or something like</p> <p>20 that.</p> <p>21 Q. But there --</p> <p>22 A. At the beginning of it.</p> <p>23 Q. Okay. Was there -- in those discussions about the</p> <p>24 shorter terms, was there -- was lifetime registration</p> <p>25 part of the discussion?</p> <p style="text-align: center;">Page 65</p>	<p>1 A. Yes. For the top, for the most like egregious, I</p> <p>2 don't know, like the CSC 1's, person under thirteen,</p> <p>3 those types of the more egregious sexual offenses.</p> <p>4 Q. Okay. And is it accurate to say that the MSP was in</p> <p>5 support of having shorter registration terms?</p> <p>6 A. Yes.</p> <p>7 Q. And to your knowledge, was the EOG in support of</p> <p>8 having shorter registration terms?</p> <p>9 A. I don't think so.</p> <p>10 Q. Okay. And do you know why the -- or, I guess, what --</p> <p>11 was there -- was there any agreement amongst the group</p> <p>12 regarding the registration terms?</p> <p>13 A. Just that -- just that there were -- just in the</p> <p>14 basic -- the basic pieces of setting up tiers and then</p> <p>15 -- that there should be a pathway off. I remember</p> <p>16 that basic agreement.</p> <p>17 Q. All right. And do you recall the position of the -- I</p> <p>18 believe you testified that there were members of the</p> <p>19 legislature that were part of the work group, is that</p> <p>20 right?</p> <p>21 A. Part of the policy administration.</p> <p>22 Q. Uh-huh.</p> <p>23 A. Senate majority policy office, I mentioned John</p> <p>24 Shiflett, that's the one who I remember the most. So</p> <p>25 they were part of it. The legislators themselves</p> <p style="text-align: center;">Page 66</p>
<p>1 didn't come to these.</p> <p>2 Q. Do you remember the folks in the legislature that did</p> <p>3 come, were they in support of shorter registration</p> <p>4 periods?</p> <p>5 A. You know, I don't remember actual legislators coming.</p> <p>6 Q. Okay. And you were asked a few questions about</p> <p>7 recidivism. What's the -- your understanding of what</p> <p>8 recidivism means?</p> <p>9 A. Where a -- a -- somebody that's previously convicted</p> <p>10 of an -- in this case, somebody previously convicted</p> <p>11 of a sex offense re-offends in a similar way.</p> <p>12 Q. Does re-offend mean that they commit another instance</p> <p>13 of criminal sexual conduct? Or does it mean that</p> <p>14 they've been caught again for committing another act</p> <p>15 of criminal sexual conduct?</p> <p>16 A. To me it means committing another act.</p> <p>17 Q. Okay. So there is a difference between getting caught</p> <p>18 for another sexual -- criminal sexual conduct versus</p> <p>19 committing another act?</p> <p>20 A. Yes.</p> <p>21 Q. Do you have experience either professionally or</p> <p>22 personally with sex offenses?</p> <p>23 A. Other than my time here with the registry, no, or time</p> <p>24 on the road, I mean, in the times that I had contact</p> <p>25 with people that were registrants.</p> <p style="text-align: center;">Page 67</p>	<p>1 Q. And your experience on the road with registrants, do</p> <p>2 you recall whether the individuals, they only ever</p> <p>3 committed one offense?</p> <p>4 A. I don't recall numbers of offenses. What I do recall</p> <p>5 is most of my contacts in the violation of the</p> <p>6 registry were for what we call technical violations,</p> <p>7 meaning, they didn't adhere to one of the</p> <p>8 requirements. Or, you know, they didn't -- they moved</p> <p>9 without changing their address, things like that.</p> <p>10 Q. And those circumstances, where it was sort of a</p> <p>11 technical violation, what happened after you showed up</p> <p>12 and you identified -- or you said hey, John, or, Bill,</p> <p>13 or, Suzy, you need to update your address? What would</p> <p>14 happen from there?</p> <p>15 A. Well, by the time it was -- it would come out to the</p> <p>16 field for like in -- in Paul's term, a sweep, usually</p> <p>17 those people were being arrested and lodged for their</p> <p>18 offense, for failing to register.</p> <p>19 Q. Okay. And that would have occurred about at least a</p> <p>20 decade ago?</p> <p>21 A. Yes. I left the road in early 2011.</p> <p>22 Q. Okay. I think this is self-evident, but does MSP</p> <p>23 control the legislature?</p> <p>24 A. No.</p> <p>25 Q. So even if MSP has some great ideas for changes in the</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

Fitzgerald, Timothy
6/28/2023

FIRM #8093

<p>1 law, the legislature passes the laws, right?</p> <p>2 A. Correct.</p> <p>3 Q. We talked a little bit about the hearing related to</p> <p>4 the new SORA. Do you remember that?</p> <p>5 A. I do.</p> <p>6 Q. We talked about there being approximately one hundred</p> <p>7 seventy submissions about the bill. Do you remember</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall whether most of the submissions were</p> <p>11 from registrants or family members of registrants?</p> <p>12 A. That's my recollection.</p> <p>13 Q. Is it surprising to you that registrants wouldn't be</p> <p>14 in favor of SORA?</p> <p>15 A. No.</p> <p>16 Q. Why's that not surprising?</p> <p>17 A. Is it surprising to me that wouldn't be in favor of</p> <p>18 the change? I -- maybe I need you to clarify the</p> <p>19 question.</p> <p>20 Q. Yeah. I mean, is it -- is it shocking to you that a</p> <p>21 bunch of registrants would show up wanting to oppose</p> <p>22 SORA?</p> <p>23 A. Oh no, no. Typically, they would love the registry to</p> <p>24 be repealed.</p> <p>25 Q. Okay. Do you recall whether any victims testified?</p> <p style="text-align: center;">Page 69</p>	<p>1 A. You know, I don't recall honestly.</p> <p>2 Q. Okay. Would it be surprising that no victims would</p> <p>3 show up to testify in support or lack of support of</p> <p>4 the bill?</p> <p>5 A. Yes, I think so. I mean, I can see why people</p> <p>6 wouldn't.</p> <p>7 Q. Why wouldn't victims of sexual assault want to show up</p> <p>8 and testify publicly?</p> <p>9 A. Well, because it's -- for one, it's being -- they're</p> <p>10 being -- it's like being part of the crime --</p> <p>11 experiencing part of the crime or elements of the</p> <p>12 crime all over again. So it's traumatic, you know, it</p> <p>13 creates stress, it creates, you know, opens wounds</p> <p>14 maybe that have been closed.</p> <p>15 Q. And then there was a couple questions about the</p> <p>16 written comments submitted by MSP. Do you remember</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. And those were submitted, I think, in the spring of</p> <p>20 2020, is that right?</p> <p>21 A. I'm going by the date on the memo, yes.</p> <p>22 Q. And that -- that was in the midst of a global</p> <p>23 pandemic, right?</p> <p>24 A. Correct.</p> <p>25 MR. JAMISON: Okay. I don't have any other</p> <p style="text-align: center;">Page 70</p>
<p>1 questions.</p> <p>2 MR. REINGOLD: I've got just one last</p> <p>3 question.</p> <p>4 RE-EXAMINATION</p> <p>5 BY MR. REINGOLD:</p> <p>6 Q. You were asked about what recidivism means. If</p> <p>7 someone's on the registry because they committed an</p> <p>8 offense and then they re-offend but are not caught,</p> <p>9 we'd never know, isn't that true?</p> <p>10 A. Yes.</p> <p>11 Q. The only way we know -- two questions now, not one --</p> <p>12 the only way we know is if they're caught and</p> <p>13 reconvicted, right?</p> <p>14 A. Correct. Yes.</p> <p>15 MR. REINGOLD: Okay. Thank you. Thanks so</p> <p>16 much for your testimony. And I hope you have a good</p> <p>17 rest of your day.</p> <p>18 (The deposition was concluded at 11:40 a.m.</p> <p>19 Signature of the witness was not requested by counsel</p> <p>20 for the respective parties hereto.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 71</p>	<p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF MICHIGAN</p> <p>4 COUNTY OF MACOMB</p> <p>5 I, Heather DeMar, RPR, CSR, and Notary</p> <p>6 Public in and for the above county and state, do</p> <p>7 hereby certify that this deposition was taken before</p> <p>8 me at the time and place hereinbefore set forth via</p> <p>9 videoconference; that the witness was by me first duly</p> <p>10 sworn to testify to the truth; that this is a true,</p> <p>11 full and correct transcript of my stenographic notes</p> <p>12 so taken, completed on 7/6/2023; and that I am not</p> <p>13 related, nor of counsel to either party, nor</p> <p>14 interested in the event of this cause. I agree that I</p> <p>15 nor any person, attorney, paralegal, or expert witness</p> <p>16 may make, copy, and/or distribute to others for future</p> <p>17 sales, monetary gain, or any other purpose, a</p> <p>18 transcript and/or video without paying Tri-County</p> <p>19 Court Reporters the ordinary and customary charge for</p> <p>20 any and all additional transcripts.</p> <p>21 </p> <p>22 Heather DeMar, RPR, CSR - 8951</p> <p>23 Notary Public.</p> <p>24 Macomb County, Michigan</p> <p>25 My Commission Expires: 12/18/2027</p> <p style="text-align: center;">Page 72</p>

18 (Pages 69 to 72)